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New Atty. Dkt. No. 034536-0155
Old Atty. Dkt. No. 038602-1060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Narmada SHENOY et al.

Title: FORMULATIONS FOR PHARMACEUTICAL AGENTS
IONIZABLE AS FREE ACIDS OR FREE BASES

Appl. No.: 09/716,332

Patent No.: 6,878,733 B1

Filing Date: November 21, 2000

Examiner: Dwayne C. Jones

Art Unit: 1614

Grant Date: April 12, 2005

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants respectfully request reconsideration of the Decision On Request For Reconsideration of Patent Term Adjustment mailed January 23, 2006, in connection with the captioned patent, U.S. Patent No. 6,878,733. This Request for Reconsideration is timely submitted within two months of the mailing date of the Decision.

The Decision states that the Patent Term Adjustment of 295 days accorded when the patent issued is correct. However, Applicants have determined that this adjustment is based on an erroneous deduction of 120 days due to applicant delay that did not occur. Calculating the Patent Term Adjustment without the erroneous 120 day deduction results in an adjustment of 415 days, as requested in Applicants' previous Request For Reconsideration of Patent Term Adjustment.

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The Patent Term Adjustment information available to the Petitions Attorney on PALM (a copy of which was provided to Applicants as a courtesy, and is attached as Exhibit A) and the information publicly available on PAIR (copy attached as Exhibit B) indicate that the accorded 295 days is based on the following calculations:

Days of Patent Office Delay:

10 days of delay under Rule 703(a)(1)

262 days of delay under Rule 703(a)(6)

236 days of delay under Rule 703(b), as adjusted for overlap with delay under Rule 703(a)

Total Days of Patent Office Delay = 508 days

Days of Applicant Delay

91 days of delay in submitting response filed December 6, 2002

2 days of delay in submitting response filed October 20, 2003

~~120 days of delay in submitting "Amendment After Notice Of Allowance" on March 24, 2004~~

Total Days of Applicant Delay = 213 days

Patent Term Adjustment = 508 days – 213 days = 295 days

Applicants note, however, that the 120 days of Applicant delay highlighted above is erroneous. Applicants did not submit any Amendment After Notice of Allowance. The only submissions made on March 24, 2004 were (i) the Issue Fee transmittal, (ii) copies of PTO Form PTOL-85 (Issue Fee transmittals), (iii) the Issue Fee payment check, (iv) the initial Request for Reconsideration of Patent Term Adjustment, and (v) a check for the Request for Reconsideration fee. A copy of Applicants' receipt postcard for these submissions, listing only these items and stamped by the Patent Office on March 24, 2004, is attached as Exhibit C.

The listing of documents under the “Image File Wrapper” tab for this patent on PAIR (copy attached as Exhibit D) corresponds to Applicants’ records. The listing shows the following items for March 24, 2004:

- (1) Petition for review and processing by the Office of Petitions (this is the Request for Reconsideration of Patent Term Adjustment)
- (2) Issue Fee Payment Recorded

The listing of documents under the “Transaction History” tab for this patent on PAIR (copy attached as Exhibit E) does not show the Petition (Request for Reconsideration) filed March 24, 2004, but instead erroneously lists an “Amendment After Notice of Allowance (Rule 312)” as being filed on that date. This appears to be the source of the error in the Patent Office’s Patent Term Adjustment calculation.

Because Applicants did not submit an “Amendment After Notice of Allowance (Rule 312)” on March 24, 2004, the assessment of 120 days of delay against Applicants for such a submission is improper. Instead, the period of Patent Term Adjustment for the patent should be calculated as follows:

Days of Patent Office Delay:

10 days of delay under Rule 703(a)(1)

262 days of delay under Rule 703(a)(6)

236 days of delay under Rule 703(b), adjusted for overlap with delay under Rule 703(a)

Total Days of Patent Office Delay = 508 days

Days of Applicant Delay

91 days of delay in submitting response filed December 6, 2002

2 days of delay in submitting response filed October 20, 2003

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Total Days of Applicant Delay = 93 days

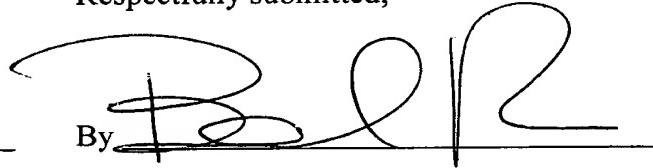
Patent Term Adjustment = 508 days - 93 days = 415 days

In view of the foregoing, Applicants respectfully request reconsideration of the Decision on Patent Term Adjustment, and an award of a Patent Term Adjustment of 415 days for the captioned patent.

The Patent Office has acknowledged receipt of the \$200.00 fee required by 37 CFR § 1.18(e), filed with the original Request for Reconsideration. Therefore, no additional fees are required. However, the Commissioner is authorized to charge any fees due to Deposit Account No. 19-0741.

If there are any questions regarding this submission, or if any issues remain, the Patent Office is invited to contact the undersigned attorney of record at the telephone number set forth below.

Respectfully submitted,

By 
Beth A. Burrous
Attorney for Applicant
Registration No. 35,087

Date 2/27/06

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5475
Facsimile: (202) 672-5399

Beth Burrows

202-672-5399

Day : Thursday
Date: 2/16/2006

Time: 11:13:10

PALM INTRANET

PTA Calculations for Application: 09/716332

Application Filing Date:	11/21/2000	PTO Delay (PTO):	508
Issue Date of Patent:	04/12/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	213
Post-Issue Petitions:	0	Total PTA (days):	295
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48.5	03/23/2005	PTA 36 MONTHS	236		
48	04/12/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	262		43
47	02/17/2005	RECEIPT INTO PUBS			
46	02/17/2005	DISPATCH TO FDC			
45	02/17/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	02/17/2005	RESPONSE TO AMENDMENT UNDER RULE 312			
43	03/24/2004	ISSUE FEE PAYMENT VERIFIED			
42	02/08/2005	PETITION DECISION - DISMISSED			
41	03/24/2004	PETITION ENTERED			
40	03/24/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		120	
38	06/10/2004	RECEIPT INTO PUBS			
37	03/24/2004	ISSUE FEE PAYMENT RECEIVED			
36	03/22/2004	RECEIPT INTO PUBS			
35	03/19/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
34	12/24/2003	MAIL NOTICE OF ALLOWANCE			
33	12/24/2003	MAIL EXAMINER'S AMENDMENT			
32	12/20/2003	ISSUE REVISION COMPLETED			
31	12/22/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	12/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
29	12/22/2003	EXAMINER'S AMENDMENT COMMUNICATION			
28	12/22/2003	NOTICE OF ALLOWABILITY			
27	11/07/2003	IFW AMENDED CASE PROCESSING COMPLETE			
26	11/07/2003	DATE FORWARDED TO EXAMINER			

25	10/20/2003	RESPONSE AFTER NON-FINAL ACTION	2	24
24	07/18/2003	MAIL NON-FINAL REJECTION		
23	07/18/2003	NON-FINAL REJECTION		
22	07/10/2003	DATE FORWARDED TO EXAMINER		
21	06/19/2003	AMENDMENT AFTER FINAL REJECTION		
20	03/19/2003	MAIL FINAL REJECTION (PTOL - 326)		
19	03/19/2003	FINAL REJECTION		
18	01/08/2003	DATE FORWARDED TO EXAMINER		
17	12/06/2002	RESPONSE AFTER NON-FINAL ACTION	91	15
16	12/06/2002	REQUEST FOR EXTENSION OF TIME - GRANTED		
15	06/06/2002	MAIL NON-FINAL REJECTION		
14	06/06/2002	NON-FINAL REJECTION		
13	04/08/2002	DATE FORWARDED TO EXAMINER		
12	03/28/2002	RESPONSE TO ELECTION / RESTRICTION FILED		
11	03/28/2002	REQUEST FOR EXTENSION OF TIME - GRANTED		
10	01/31/2002	MAIL RESTRICTION REQUIREMENT	10	-1
9	01/31/2002	REQUIREMENT FOR RESTRICTION / ELECTION		
8	06/29/2001	CASE DOCKETED TO EXAMINER IN GAU		
7	06/13/2001	APPLICATION DISPATCHED FROM OIPE		
6	06/13/2001	APPLICATION IS NOW COMPLETE		
5	03/29/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED		
4	03/29/2001	CORRESPONDENCE ADDRESS CHANGE		
3	03/29/2001	CORRESPONDENCE ADDRESS CHANGE		
2	12/19/2000	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	11/21/2000	INITIAL EXAM TEAM NN		

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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09/716,332 FORMULATIONS FOR PHARMACEUTICAL AGENTS IONIZABLE AS FREE ACIDS OR BASES

Application
 Transaction History
 Data
 Image File
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 Continuity
 Published
 Documents
 Fees
 Address &
 Attorney/Agent

Patent Term Adjustment (PTA) for Application Number: 09/716,332

Filing or 371(c) Date:	11-21-2000	USPTO Delay (PTO):	508
Issue Date of Patent:	04-12-2005	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	213
Post-Issue Petitions (days):	+0	Total PTA:	295
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
04-12-2005	Patent Issue Date Used in PTA Calculation	262	
03-23-2005	PTA 36 Months		236
02-17-2005	Receipt into Pubs		
02-17-2005	Dispatch to FDC		
02-17-2005	Application Is Considered Ready for Issue		
02-17-2005	Response to Amendment under Rule 312		
02-08-2005	Petition Decision - Dismissed		
06-10-2004	Receipt into Pubs		

03-24-2004	Issue Fee Payment Verified	
03-24-2004	Petition Entered	↑
03-24-2004	Amendment after Notice of Allowance (Rule 312)	121
03-24-2004	Issue Fee Payment Received	↑
03-22-2004	Receipt into Pubs	1
03-19-2004	Workflow - File Sent to Contractor	↑
12-24-2003	Mail Notice of Allowance	1
12-24-2003	Mail Examiner's Amendment	↑
12-22-2003	Notice of Allowance Data Verification Completed	1
12-22-2003	Case Docketed to Examiner in GAU	↑
12-22-2003	Examiner's Amendment Communication	1
11-07-2003	IFW Amended case processing Complete	↑
11-07-2003	Date Forwarded to Examiner	1
10-20-2003	Response after Non-Final Action	↑
07-18-2003	Mail Non-Final Rejection	1
07-18-2003	Non-Final Rejection	↑
07-10-2003	Date Forwarded to Examiner	1
06-19-2003	Amendment after Final Rejection	↑
03-19-2003	Mail Final Rejection (PTOL - 326)	↑
03-19-2003	Final Rejection	↑
01-08-2003	Date Forwarded to Examiner	1
12-06-2002	Response after Non-Final Action	9
12-06-2002	Request for Extension of Time - Granted	1
06-06-2002	Mail Non-Final Rejection	↑
06-06-2002	Non-Final Rejection	1
04-08-2002	Date Forwarded to Examiner	↑
03-28-2002	Response to Election / Restriction Filed	1
03-28-2002	Request for Extension of Time - Granted	↑
01-31-2002	Mail Restriction Requirement	10
01-31-2002	Requirement for Restriction / Election	↑
06-29-2001	Case Docketed to Examiner in GAU	1
06-13-2001	Application Dispatched from OIPE	↑
06-13-2001	Application Is Now Complete	1
03-29-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑
03-29-2001	Correspondence Address Change	↑

	03-29-2001	Correspondence Address Change	↑
	12-19-2000	IFW Scan & PACR Auto Security Review	↑
	11-21-2000	Initial Exam Team nn	↓

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- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
- If you experience technical difficulties or problems with this application, please report them via e-mail [Business Support](#) or call 1 800-786-9199.

**FOLEY & LARDNER LLP
ATTORNEYS AT LAW**

IN THE US PATENT AND TRADEMARK OFFICE

Receipt is hereby acknowledged of the following:

Applicant: Narmada SHENOY et al.

Docket No. 034536-0155

Serial No.: 09/716,332

Filing Date: November 21, 2000

For: *Formulations for Pharmaceutical Agents Ionizable as Free Acids or Free Bases*

1. Issue Fee Transmittal (2 pp.);
2. PTOL-85 (1 p.) (in duplicate);
3. Request for Reconsideration of Patent Term Adjustment (S.O.P.E.);
4. Check No. 34004 in the amount of \$1330.00; and
5. Check No. 34005 in the amount of \$200.00.

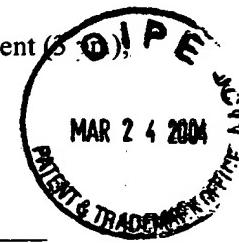
File in Mailroom

Date Filed: March 24, 2004

Due Date: March 24, 2004

Return To: BAB/mdm

Inspected by: NB



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<p>Other</p> <p><input type="checkbox"/> Copyrights</p> <p><input type="checkbox"/> Trademarks</p> <p><input type="checkbox"/> Policy & Law Reports</p>																																				

12-24-2003	<u>Notice of Allowance and Fees Due (PTOL-85)</u>	3	<input type="checkbox"/>
12-24-2003	Notice of Allowance and Fees Due (PTOL-85)	5	<input type="checkbox"/>
12-24-2003	<u>Examiner Interview Summary Record (PTOL - 413)</u>	2	<input type="checkbox"/>
12-24-2003	List of References cited by applicant and considered by examiner	8	<input type="checkbox"/>
12-24-2003	<u>Issue Information including classification, examiner, name, claim, renumbering, etc.</u>	1	<input type="checkbox"/>
12-24-2003	Search information including classification, databases and other search related notes	1	<input type="checkbox"/>
12-04-2003	<u>Examiner's search strategy and results</u>	2	<input type="checkbox"/>
10-20-2003	Amendment - After Non-Final Rejection	1	<input type="checkbox"/>
10-20-2003	<u>Claims</u>	14	<input type="checkbox"/>
10-20-2003	Applicant Arguments or Remarks Made in an Amendment	3	<input type="checkbox"/>
07-18-2003	<u>Non-Final Rejection</u>	6	<input type="checkbox"/>
07-18-2003	Examiner's search strategy and results	2	<input type="checkbox"/>
06-19-2003	<u>Power of Attorney (may include Associate POA)</u>	11	<input type="checkbox"/>
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06-19-2003	<u>Claims</u>	5	<input type="checkbox"/>
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03-19-2003	<u>Non-Final Rejection</u>	8	<input type="checkbox"/>
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12-06-2002	Extension of Time	1
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01-23-2006	Petition Decision - Dismissed
04-27-2005	Petition Entered
04-12-2005	Recordation of Patent Grant Mailed
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02-17-2005	Receipt into Pubs
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03-19-2004	Workflow - File Sent to Contractor
12-24-2003	Mail Notice of Allowance
12-24-2003	Mail Examiner's Amendment
12-22-2003	Notice of Allowance Data Verification Completed
12-22-2003	Case Docketed to Examiner in GAU
12-22-2003	Examiner's Amendment Communication
11-07-2003	IFW Amended case processing Complete
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10-20-2003	Response after Non-Final Action
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04-08-2002	Date Forwarded to Examiner
03-28-2002	Response to Election / Restriction Filed
03-28-2002	Request for Extension of Time - Granted
01-31-2002	Mail Restriction Requirement
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06-29-2001	Case Docketed to Examiner in GAU
06-13-2001	Application Dispatched from OIPE
06-13-2001	Application Is Now Complete
03-29-2001	Notice Mailed--Application Incomplete--Filing Date Assigned

	03-29-2001	Correspondence Address Change
	03-29-2001	Correspondence Address Change
	12-19-2000	IFW Scan & PACR Auto Security Review
	11-21-2000	Initial Exam Team nn

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